

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JAMES ROBERT KEARY, et al.,

Plaintiffs,

Civil Action No.
11-CV-15133

vs.

HON. MARK A. GOLDSMITH

U.S. BANK NATIONAL
ASSOCIATION ND,

Defendant.

ORDER REGARDING REPORT AND RECOMMENDATION (DKT. 26)

On July 9, 2013, Plaintiffs filed a pro se motion for relief from judgment pursuant to Rule 60(b) of the Federal Rules of Civil Procedure. Mot. for Relief from J. (Dkts. 17, 20). Plaintiffs requested that the Court set aside the earlier dismissal of the case, which was based on the failure to respond to Defendant's motion for summary judgment and the Court's Order to show cause. Order of Dismissal (Dkt. 16). Plaintiffs claimed that the failure to respond to either the motion or the Court's Order was a result of their attorney's neglect, rather than their own conduct. Mot. for Relief from J. (Dkts. 17, 20). The Court referred the motion to United States Magistrate Judge Mona K. Majzoub for a report and recommendation pursuant to 28 U.S.C. § 636(b)(1)(B). Order of Referral (Dkts. 18, 21).

Magistrate Judge Majzoub issued her report and recommendation on November 19, 2013. R&R (Dkt. 26). She recommended the Court deny the motion as untimely and for failure to assert a meritorious claim. Id. The report and recommendation also notified the parties that they could "object to and seek review of [the] Report and Recommendation, but are required to act within

fourteen (14) days of service of a copy hereof as provided for in 28 U.S.C. § 636(b)(1) and E.D. Mich. LR 72.1(d)(2).” Id. at 12. The report and recommendation was served using CM/ECF, which sent notice to both Plaintiffs’ counsel and Defendant’s counsel. However, the notice that was sent to Plaintiffs’ counsel was returned as undeliverable. See Notice of E-mail Delivery Failure (Dkt. 27). Plaintiffs were not served directly.

In light of the undeliverable notice to Plaintiffs’ counsel, and Plaintiffs’ concerns raised in the instant motion regarding their counsel’s responsiveness, the Court orders that a copy of the report and recommendation, as well as a copy of this Order, be served directly on Plaintiffs at the address listed in the caption of the subject motion. Given the issues surrounding service of the report and recommendation, the Court extends the deadline to file objections to December 17, 2013, i.e., fourteen days from the date of this Order.

SO ORDERED.

Dated: December 3, 2013
Flint, Michigan

s/Mark A. Goldsmith
MARK A. GOLDSMITH
United States District Judge

CERTIFICATE OF SERVICE

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on December 3, 2013.

s/Deborah J. Goltz
DEBORAH J. GOLTZ
Case Manager